

BILL ANALYSIS

Senate Research Center

S.B. 1702
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In order to obtain new residential coverage from the Texas Windstorm Insurance Association (TWIA), a homeowner is typically required to produce a certificate of building code compliance (known as a WPI-8) on their structure. However, if a WPI-8 was not required by their previous insurance carrier, securing a certificate after the fact is cost-prohibitive and burdensome.

Through rulemaking at the Texas Department of Insurance and legislation, TWIA now has a patchwork waiver program to allow coverage on a residential structure without a WPI-8. Structures accepted into TWIA under the waiver program are subject to a 15 percent surcharge.

S.B. 1702 simplifies the waiver program by amending Section 2210.251(f) so that a residential structure need not have been insured by TWIA as of September 1, 2009, to obtain or continue coverage.

Any new construction, remodel, repair, et cetera, done after June 19, 2009, must have a WPI-8 in order to obtain new coverage from TWIA. A WPI-8 is still required for all repairs, remodels, et cetera, on homes already covered by TWIA in order to maintain coverage.

S.B. 1702 amends current law relating to residential property insured by the Texas Windstorm Insurance Association.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the commissioner of insurance is rescinded in SECTION 5 (Section 2210.260, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2210.251(f), Insurance Code, as follows:

(f) Authorizes insurance coverage for a residential structure, notwithstanding any other provision of this section, to be issued or renewed through the Texas Windstorm Insurance Association (TWIA) subject to the inspection requirements imposed under Section 2210.258, if applicable, rather than authorizing a residential structure insured by TWIA as of September 1, 2009, to continue coverage through TWIA subject to the inspection requirements imposed under Section 2210.258. Provides that this subsection expires December 31, 2015.

SECTION 2. Amends Section 2210.258, Insurance Code, as follows:

Sec. 2210.258. New heading: COMPLIANCE WITH BUILDING CODES; ELIGIBILITY. (a) Requires that all construction, alteration, remodeling, enlargement, and repair of, or addition to, any structure located in the catastrophe area that is begun on or after the effective date of Sections 5 through 49, H.B. No. 4409, Acts of the 81st Legislature, Regular Session, 2009, except as provided by Subsection (c) and Section 2210.2581 and notwithstanding any other provision of this chapter, to be eligible for insurance through TWIA, be performed in compliance with the applicable building code standards, as set forth in the plan of operation.

(b) Prohibits TWIA, except as provided by Subsection (c), from insuring a structure described by Subsection (a) until the structure has been inspected for compliance with the plan of operation in accordance with Section 2210.251(a) (relating to eligibility for insurable property for windstorm and hail insurance coverage), and a certificate of compliance has been issued for the structure in accordance with Section 2210.251(g) (relating to requiring the Texas Department of Insurance to issue a certificate of compliance for each structure that qualifies for coverage).

(c) Authorizes TWIA to insure a residential structure constructed, altered, remodeled, enlarged, repaired, or added to on or after June 19, 2009, that is not in compliance with the applicable building code standards, as set forth in the plan of operation, provided that:

(1) the structure had been insured on or after June 19, 2009, by an insurer in the private market that canceled or nonrenewed the insurance coverage of the structure before December 31, 2015;

(2) the applicant provides to TWIA proof that insurance coverage that was issued to the applicant or the previous insured for the structure was canceled or nonrenewed in the private market as described by Subdivision (1); and

(3) no construction, alteration, remodeling, enlargement, or repair of, or addition to, the structure occurred after cancellation or nonrenewal of the coverage and before submission of an application for coverage through TWIA.

SECTION 3. Amends Subchapter F, Chapter 2210, Insurance Code, by adding Section 2210.2581, as follows:

Sec. 2210.2581. MANDATORY COMPLIANCE WITH BUILDING STANDARDS; CERTAIN STRUCTURES. Prohibits TWIA, except as provided by Section 2210.251(d) (relating to providing that a structure constructed, altered, remodeled, enlarged, or repaired or to which additions were made before January 1, 1988, that is located in an area that was governed at the time of the construction, alteration, remodeling, enlargement, repair, or addition by a building code recognized by TWIA is insurable property eligible for windstorm and hail insurance coverage from TWIA without compliance with the inspection or approval requirements of this section or the plan of operation) and (e) (relating to providing that a structure constructed, altered, remodeled, enlarged, or repaired or to which additions were made before January 1, 1988, that is located in an area not governed by a building code recognized by TWIA is insurable property eligible for windstorm and hail insurance coverage from TWIA without compliance with the inspection or approval requirements of this section or the plan of operation if the structure was previously insured by an insurer authorized to engage in the business of insurance in this state and the structure is in essentially the same condition as when previously insured, except for normal wear and tear, and is without any structural change other than a change made according to code), and notwithstanding Section 2210.258 or any other provision of this chapter, on and after December 31, 2015, from issuing or renewing insurance coverage for a structure unless the structure complies with the applicable building code standards in effect on the date the construction, alteration, remodeling, enlargement, or repair of, or addition to, the structure begins, as set forth in the plan of operation.

SECTION 4. Amends Section 2210.259, Insurance Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Provides, except as provided by Subsection (a-1), an insurance policy insuring a noncompliant residential structure under Section 2210.251(f) is subject to an annual

premium surcharge in an amount equal to 15 percent of the premium for insurance coverage obtained through TWIA, rather than providing that a noncompliant residential structure insured by TWIA as of September 1, 2009, under Section 2210.251(f) that had been approved for insurability under the approval process regulations in effect on September 1, 2009, is subject to an annual premium surcharge in an amount equal to 15 percent of the premium for insurance coverage obtained through TWIA.

(a-1) Requires TWIA, for a policy insuring a noncompliant residential structure eligible for coverage under Section 2210.258(c), to charge:

(1) a premium based on the rate charged in the voluntary market for the portion of the canceled or nonrenewed policy that provides windstorm and hail insurance coverage for the applicable risk; and

(2) an annual premium surcharge in an amount equal to 10 percent of that premium.

SECTION 5. Repealer: Section 2210.260 (Alternative Eligibility for Coverage), Insurance Code.

SECTION 6. Effective date: upon passage or September 1, 2013.